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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/534,767	05/12/2005	Alain Durr	16528.2a.3a	8884		
22913	7590	12/13/2007	EXAMINER			
WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111				KASHNIKOW, ERIK		
ART UNIT		PAPER NUMBER				
4174						
MAIL DATE		DELIVERY MODE				
12/13/2007		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/534,767	DURR, ALAIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	ERIK KASHNIKOW	4174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 May 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) 9 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 and 10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Specification***

1. It is noted that on page 2 line 17 of the specification it is stated that patent 3,965,920 deals with a beverage bottle. However, an inspection of said patent shows that it does not deal with a beverage container, but rather it is directed to installations for monitoring oil content. Clarification to this noted discrepancy is hereby requested.
2. It is noted that applicant refers to claims by number in the specification. As it remains to be seen which claims, what format the claims may be issued, and what the final number of any claims that may be issued would be, there should be no reference to claims by number in the specification. Appropriate correction is required.

### ***Claim Objections***

3. Claim 4 is objected to because of the following informalities: performed should be preformed. Appropriate correction is required.
4. Claim 8 is objected to because of the following informalities: undetachably is not a word. Examiner continued to examine the claim applying the phrase is unable to be detached in place of undetachably. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cavanagh et al. (US 3,955,020).
7. In regards to claim 1 Cavanagh et al. teaches a bottle with a multilayer plastic laminate (column 1 lines 53-67). Cavanagh et al. teach that one of the plastic layers can be of an opaque design (Claim 3). Cavanagh et al. also teach that the covering can cover from the bottom of the bottle to the shoulders at the top of the bottle (column 4 lines 54-55).
8. In regards to claim 2 Cavanagh et al. teach that the opaqueness of the bottle can be caused by a coloring material to the one of the plastic layers (claim 4)
9. In regards to claim 3 Cavanagh et al. teach that the layers on the outside of the bottle can be formed from polyethylene polyvinylchloride and others (column 4 lines 65-68).
10. In regards to claim 4 Cavanagh et al. show in figure 2 that the plastic layer is laying fully against the container wall.
11. While Cavanagh et al are silent regarding the plastic layer covering the entire bottle, they do teach that the plastic layers cover the entire straight portion of the bottle, but that further protection to the heel and shoulders can be added (column 2 line 49-51). It would be well within the ability of one of ordinary skill in the art at the time of the invention to extend the plastic layers to cover these portions of the bottle. One would be motivated to extend the plastic layers to increase the protection offered by the layers.

12. Claim 5-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cavanagh et al. (US 3,955,920) in view of Witkowski (US 5,525,383).

13. As stated above Cavanagh et al. teach a multilayer laminate attached to the outside of a bottle. However they are silent regarding the multilayer laminate being in the form of two half shells connected by hinges.

14. Witkowski teaches a liquid container (column 2 line 19), with a tubular sleeve mounted on the outside wall of the container (column 2 line 33). Witkowski also teaches that the tubular sleeve can be made of any plastic film (column 4 lines 59-61), and can be transparent or translucent (column 4 line 20-21).

15. In regards to claim 5 and 6 as stated above Witkowski teaches that the sleeve can be formed by a sheet of any plastic material. Witkowski teaches that the sheets are formed into a tube (column 5 line 16). Figure 24 shows an image where two half shells are seen around the container. Witkowski further teaches that the half shells can be closed by tape (column 5 line 18). It is obvious to one of ordinary skill in the art at the time of the invention that when taped together the tape section of the half shells can act as a hinge.

16. In regards to claim 7 Witkowski et al teach that the sheet can be printed on while on the container, which would require that the design be printed onto the tape that is holding the clam shells together (column 4 lines 45-51).

17. In regards to claim 8 Cavanagh et al. teach that the outer layer is attached to the container by use of an adhesive (column 5 line 60 column 6 line 20).

18. In regards to claim 10 Witkowski teaches that the claimed invention can be used to hold different ingredients such as beer or soda (column 1 lines 21-21). Making it so all the containers are identical except for a number or letter on the outer side of the container is just a design choice, and would of been an obvious variant to one of ordinary skill in the art at the time of the invention.

19. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Cavanagh with the invention of Witkowski because the invention of Cavanagh provides an attractive decoration as well as protection against shattering and scattering of broken glass pieces if the container manages to break (column 1 lines 55-60), while the invention of Witkowski also offers a wide variety of decorating options as well as being inexpensive and durable (column 1 lines 24-28).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIK KASHNIKOW whose telephone number is (571)270-3475. The examiner can normally be reached on Monday-Friday 7:30-5:00PM EST (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gwendolyn Blackwell/  
Primary Examiner, Art Unit 1794

Erik Kashnikow  
Examiner  
Art Unit 4174